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 NICOLE MOSS
 and DISABILITY RIGHTS
 ENFORCEMENT, EDUCATION,
 SERVICES: HELPING YOU
 HELP OTHERS

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

NICOLE MOSS, an individual; and)
 DISABILITY RIGHTS, ENFORCEMENT,)
 EDUCATION, SERVICES: HELPING)
 YOU HELP OTHERS, a California public)
 benefit corporation,)
 Plaintiffs,)
 v.)
 MANILA BAY CUISINE; LAND MARK)
 TOWNE CENTER, LLC., a Delaware)
 limited liability company; AGLOS, LLC., a)
 Delaware limited liability company;)
 DINKY, LLC., a Delaware limited liability)
 company; GF LIBERTY, LLC., a Delaware)
 limited liability company; CRIMSUN INC.,)
 a California corporation,)
 Defendants.)

CASE NO. C 06-6356 SBA

**DECLARATION OF MARIA V.
 MARTINEZ IN SUPPORT OF
 PLAINTIFFS' MOTION TO ALTER OR
 AMEND JUDGMENT**

[Fed. R. Civ. P. 59(e)]

Date: October 30, 2007
Time: 1:00 PM
Judge: Hon. Sandra B. Armstrong
Room: Courtroom 3, 3rd Floor
Location: 301 Clay Street
Oakland, California
Telephone: (510) 637-3541

I, MARIA V. MARTINEZ, declare that if called as a witness and duly sworn, I would and could competently testify to the following based upon my own personal knowledge:

1. That I am a paralegal employed by plaintiffs' counsel of record, Thomas E. Frankovich, APLC.

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1 2. In May of 2007, as a result of former associate attorney Julia Adams leaving this
2 firm, this matter was re-assigned to lead trial counsel Thomas Frankovich for day-to-day case
3 management. In my capacity as paralegal, I assist Mr. Frankovich in the monitoring and
4 management of his cases.

5 3. On May 7, 2007, upon review of the file, I noticed that a joint site inspection was
6 tentatively scheduled for May 10, 2007. As a result, I telephoned defendants' counsel to confirm
7 the inspection. I also wrote them via e-mail regarding the same.

8 4. On or about May 8, 2007, I received a phone call from defense counsel, Nathan
9 Paco, informing me that he was not available for the May 10, 2007, joint site inspection.

10 5. As a result of my telephonic conversation with Mr. Paco, on May 10, 2007, I
11 wrote both counsel for defendants and proposed a new date of May 23, 2007, to hold the joint
12 site inspection. That same day, both counsel confirmed the new date of May 23, 2007.

13 6. On May 23, 2007, the parties held a joint inspection of the premises.

14 7. On or about May 24, 2007, I spoke with Mr. Frankovich regarding the site
15 inspection. I understood from Mr. Frankovich that he made a verbal demand for settlement while
16 the parties were at the premises. It now appears that my understanding may not have been
17 correct.

18 8. On or about the week of August 27, 2007, during a meeting with Mr. Frankovich,
19 I was asked to draft a letter for his review following-up on plaintiffs' settlement demand.

20 9. That same week, I was assisting Mr. Frankovich in preparation for a trial
21 scheduled for September 13, 2007. These trial preparation activities involved a complex
22 personal injury case with significant medical and economic expert discovery. Due to these
23 demands on my time, I was prevented from drafting the requested follow-up letter prior to
24 receiving the Court's Order of Dismissal on September 13, 2007.

25 10. Immediately upon receiving the Order of Dismissal, I reviewed our case file to
26 ascertain why the Order to Show Cause hearing did not appear on our calendar. The Order to
27 Show Cause Notice of July 16, 2007, was not in the case file, and it appears that counsel never
28 received said Notice.

1 11. In the ordinary course of business, all electronic notification sent to this office is
2 printed out by support staff, receipt of the notification is registered on a daily log of incoming
3 communications, and copies are given to the attorney assigned to the case and to myself if I am
4 assisting the attorney in that case. A review of the daily communications logs for July 16 and 17,
5 2007, do not reflect receipt of the Notice.

6 12. Furthermore, in this case, had the notice been received, a copy would have been
7 provided to Mr. Frankovich, plaintiffs' lead counsel, and to myself. No such copy was received.
8 Had plaintiffs' counsel received notice of the order to show cause, a response would have been
9 timely made.

10 I declare under penalty of perjury that the foregoing is true and correct. Executed on this
11 20th day of September, 2007, at San Francisco, California.

12
13
14 DATED: September 20, 2007

By: /s/ Maria V. Martinez

MARIA V. MARTINEZ